



LEGAL DEPARTMENT

August 29, 2008

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VIA CERTIFIED U.S. MAIL AND FACSIMILE (217) 782-9039

Douglas Scott
Director, Illinois Environmental Protection Agency
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

Re: Supplement to Self-Disclosure of Potential RCRA Violations
and Certification of Correction of Violations

Dear Director Scott:

This correspondence is sent with regard to the notification submitted by Koch Pipeline Company, LP ("KPL") to EPA on July 18, 2008, under EPA's "Incentives for Self-Policing: Discovery, Disclosure, Correction, and Prevention of Violations" policy, 55 Fed. Reg. 9618 (11 April 2000) (the "Audit Policy") and to the Illinois Environmental Protection Agency pursuant to 415 ILCS 5/42(i). As detailed below, this correspondence supplements the July 18, 2008 notifications and also certifies that, where possible, the violations disclosed in those notifications and in this correspondence have been corrected. In addition, as discussed further below, KPL has put in place an interim waste management policy, and is revising its current waste management procedures, in order to address the practices that may have led to the potential violations.

Supplement to July 18, 2008 Notification

In the July 18, 2008 notification, KPL disclosed that it was in the process of conducting a voluntary self-assessment of the waste management procedures KPL has utilized for above-ground storage tank cleanouts at its tanks located in the north-central United States. That assessment has addressed tanks including, but not limited to, tanks located at KPL's facility at 480 Robbins Road, Hartford, Illinois 62048 (FRS: 110007545479) ("the Hartford Facility"). Further, KPL disclosed that it had discovered certain potential violations of environmental law, specifically that during two tank cleanouts at the Hartford Facility in 2005 and 2006, KPL may have improperly designated as non-hazardous waste certain wastes that should have been designated hazardous under the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6901 et seq., as administered through approved state programs.

The initial disclosure was made prior to the completion of the voluntary self assessment in order to ensure prompt notice was made of the discovery. In completing the assessment, KPL has identified additional information relating to the 2005 tank cleanout, and additional potential issues relating to a 2007 tank cleanout at the Facility.

First, in KPL's initial disclosure, based on information available to KPL at the time, KPL incorrectly identified the ultimate disposal site for the waste generated during the 2005 tank cleanout. In the initial disclosure, KPL indicated that the wastes generated during the 2005 and the 2006 tank cleanouts were shipped from KPL's Hartford Facility to the Onyx Waste Services ("Onyx") (now Veolia Environmental Services) facility in West Carrollton, Ohio, and that Onyx mixed the wastes with other compatible wastes and then shipped the wastes to the Waste Management Stoney Hollow Landfill in Dayton, Ohio. KPL still understands this to be correct with regard to the waste generated during the 2006 tank cleanout. As to the 2005 tank cleanout, however, KPL has since been advised that, after mixing the waste, Onyx shipped the waste to the Republic Services ("Republic") Pine Grove Landfill in Amanda, Ohio. KPL has notified Republic of this fact.

Second, in continuing its voluntary self-assessment, KPL identified additional potential waste characterization issues under the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, et seq., as administered through approved state programs, relating to a tank cleanout at the Hartford Facility in 2007. Among the wastes generated during this tank cleanout were 8 drums of oily sand, 8 drums of oily pads and rags, and 4 drums of carbon filter media. KPL characterized these wastes as non-hazardous based on generator knowledge and sent all of these wastes to the Clean Harbors Spring Grove Resource Recovery facility in Cincinnati, Ohio. With regard to the oily sand, KPL has just received some new information relating to its characterization of that waste based on generator knowledge. KPL still is processing that information, and will send a further update to EPA regarding the oily sand waste after KPL has concluded its evaluation. With regard to the oily pads and rags and the carbon filter media, it appears to KPL that the reliance on generator knowledge for characterization may have been warranted; nevertheless, KPL believes it would have been reasonable to test those wastes for benzene content as well. Consequently, KPL discloses for the handling of the specified tank cleanout wastes at the Hartford Facility in 2007 a probable violation of the waste characterization requirements set forth in 40 CFR § 262.11(c) and 35 Ill. Admin. Code § 722.111. In the event any of these wastes were determined to have been hazardous, that could lead to the other potential waste management violations noted in Attachment A to our July 18, 2008 disclosure, and KPL therefore discloses those potential violations for the 2007 wastes as well.

Third, in completing its voluntary self-assessment, KPL has discovered that it did not file Nonhazardous Special Waste Annual Reports for the years 2005, 2006, or 2007 for nonhazardous special wastes generated at the Hartford Facility and transported outside the State of Illinois for disposal during these years.

KPL is filing similar supplements to its July 18, 2008 disclosure with U.S. EPA and Ohio EPA.

Certification of Correction of Violations

The Audit Policy requires that a party making an audit disclosure "correct[] the violation[s] within 60 calendar days from the date of discovery" and "certif[y] in writing that the violation has been corrected." In this case, it is not possible for KPL to correct all potential violations at issue, e.g., to properly label drums of waste or to sample and analyze wastes that no longer are located at the Hartford Facility. However, in accordance with this requirement, KPL hereby certifies that where possible, it has corrected the violations at issue. Specifically, KPL has filed corrective 2005 and 2006 annual hazardous waste reports, and 2005-2007 special waste reports, with Illinois EPA, copies of which are enclosed.

Conclusion

In light of the discovery of these issues, KPL has instituted an interim policy requiring legal and management oversight of all off-site shipments of operational wastes, in order to ensure that all such wastes are properly

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characterized and managed. As of the date of this letter, KPL employees have been trained on that policy. In addition, KPL has begun the process of reviewing and revising its current waste management procedures in order to ensure proper characterization and management of these wastes in the future.

KPL requests that this correspondence be construed as an addition to its July 18, 2008 Illinois EPA Audit Policy disclosure. Further, based on the information disclosed herein and KPL's prompt, voluntary disclosures to Illinois EPA, KPL requests that Illinois EPA waive all gravity-based penalties that might otherwise accrue, pursuant to the Illinois EPA Audit Policy.

If you have any questions or require additional information about the details, discovery, or disclosure of the waste management issues for this Facility, please do not hesitate to contact me.

Sincerely,


Thomas G. Saflay

TGS/hye

Enclosures

cc: ✓ Jodi Swanson-Wilson, U.S. EPA Region 5
Chris Korleski, Director Ohio EPA